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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/382,421	08/24/1999	JEFFRY JOVAN PHILYAW	PHLY-24.740	5215

25883 7590 01/30/2004

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P.O. BOX 741715  
DALLAS, TX 75374-1715

EXAMINER
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LUU, LE HIEN

ART UNIT	PAPER NUMBER
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2141

18

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/382,421

Applicant(s)

PHILYAW ET AL.

Examiner

Le H Luu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/08/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Claims 1-9 are presented for examination.
2. The rejections of claims 1-9 under 35 U.S.C. § 112 first paragraph have been withdrawn due to applicant's amendment filed 12/08/2003.
3. Claim 1 is objected to because of the following informalities: Applicant accidentally deleted the word "indicia" in line 16. Appropriate correction is required.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-9 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Perkowski** patent no. **6,064,979**.
6. As to claim 1, Perkowski teaches the invention substantially as claimed, including a visual indicia for facilitating computer based access of a network by consumer, comprising:

a machine readable code disposed on a surface having encoded therein information as to a product that is provided by the product manufacturer and physically associated with the product itself, which machine readable code has no routing

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information contained therein to allow a user to access any location on a network, and which machine readable code has a relationship to the product or service unrelated to routing information (col. 10 lines 14-33; UPC or UPN has relationship to a product or service but has no routing information); and

a visual indicia disposed on said surface in a predetermined proximate orientation to said machine readable code such that the machine readable code and the visual indicia together form a defined composite visual appearance (Perkowski, col. 4 lines 5-23; col. 20 line 9-14; col. 21 lines 52-62; trademark symbol or logo or company name is printed on service or product with bar code), indicative of a relationship between said machine readable code and the presence of a location (Perkowski, URL) on a network and that such location on the network can be accessed by a computer having an appropriate input device (Perkowski, bar code reader or scanner) for reading said machine readable code, such that reading of said machine readable code by said input device will connect the computer to the location (col. 10 line 14 – col. 11 line 16; col. 15 lines 9-43; trademark symbol or logo has no relationship to product or service).

However, Perkowski does not explicitly teach the visual indicia indicates that scanning of the machine readable code will cause computer based access of the network.

Perkowski teaches trademark symbol or logo or company name is printed on service or product with bar code (Perkowski, col. 4 lines 5-23; col. 20 line 9-14; col. 21 lines 52-62). Moreover, Perkowski teaches a client system's display screen produced from the Internet Product Service Directory server (IPSD server) read as follows:

"Welcome to UPC-Request<sup>™</sup> the only Universal Product Information Finding System on the Internet." (Perkowski, col. 19 lines 1-12).

"Simply enter the 12 digit UPC the particular product; click REQUEST, and then wait for the display of the list of Web locators (URLs) at which the desired product information can be found on the Internet." (Perkowski, col. 19 lines 34-40).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Perkowski to provide information on the same surface as the bar code or machine readable code to indicate that by scanning of the machine readable code will cause computer based access of the network because it would inform users that additional related product information are available on the network.

7. As to claims 2-6, Perkowski teaches said visual indicia is not machine readable, and machine readable code represents a product, machine readable code is disposed on a product, machine readable code is in closed association with said product, and machine readable code is a UPN (col. 4 lines 14-22; col. 12 line 65 – col. 13 line 9).

8. As to claim 7, Perkowski teaches the invention substantially as claimed as discussed above; however, Perkowski does not explicitly teach said machine readable code is an ISBN.

Official Notice is taken that ISBN is well known.

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the well known teaching with Perkowski's system to use ISBN as one of machine readable code because it would allow user to get more information related to a publication.

9. As to claim 8, Perkowski teaches said machine readable code is an EAN (col. 6 lines 26-46; EPC reads on EAN which is European Article Numbering).

10. As to claim 9, Perkowski teaches said machine readable device is a scanner (col. 19 lines 38-40).

11. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu, whose telephone number is (703) 305-9650. The examiner can normally be reached Monday through Friday from 7:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7240.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Any response to this final action should be mailed to:

**Box AF**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306, (for formal communications; please mark  
"EXPEDITED PROCEDURE").

**Or:**

(703) 872-9306, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT").

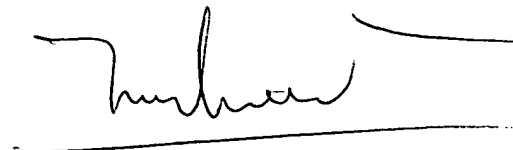
**Or:**

(703) 746-7238 (for After Final  
communications).

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

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A handwritten signature in black ink, appearing to read 'Le Hien Luu', is written above a horizontal line.

LE HIEN LUU  
PRIMARY EXAMINER

January 23, 2004